

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARVIN CLEARY,  
ID #1692182,**

Petitioner,

v.

Civil Action No. 3:17-CV-722-L

**LORIE DAVIS, Director,  
TDCJ-CID,**

Respondent.

**ORDER**

Before the court is Petitioner's Motion to Abate and Call for Reconsideration (Doc. 25), filed April 18, 2018. On April 20, 2018, United States Magistrate Judge Irma Carrillo Ramirez entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"), recommending that Petitioner's motion be denied. No objections were filed to the Report.

The magistrate judge recommended that Petitioner's motion be construed as a Rule 59(e) motion because his motion challenges the judgment in this case and was filed within 28 days of its entry. The magistrate judge further concluded that Petitioner does not present any intervening change in law, new evidence, or manifest error of law or fact, or other extraordinary circumstances justifying alteration or amendment of the judgment, and he has not shown that his habeas petition was timely filed. Report 2. Accordingly, the magistrate judge recommended the court deny the motion.

Having reviewed the motion, pleadings, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **denies** Petitioner's Motion to Abate and Call for Reconsideration (Doc. 25).

**It is so ordered** this 19th day of July, 2018.



Sam A. Lindsay  
United States District Judge